

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**PEOPLE'S CAPITAL AND  
LEASING CORP.,**

**Plaintiff,**

**CIVIL ACTION NO. 07-14566**

**vs.**

**DISTRICT JUDGE JOHN CORBETT O'MEARA**

**CHARLES PHILLIPS,  
BARBARA WOLAK, and  
ROBOCOLOR, LLC,**

**MAGISTRATE JUDGE MONA K. MAJZOUN**

**Defendants.**

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**REPORT AND RECOMMENDATION**

**I. RECOMMENDATION:** This Court recommends that the district court enter the attached proposed order sustaining Garratt & Bachand P.C.'s objections to garnishment (docket no. 33).

**II. REPORT:**

Plaintiff filed this action on October 25, 2007 against Defendant guarantors seeking to recover the balance of money due on a defaulted loan. On June 30, 2008 the Court granted Plaintiff's motion for summary judgment and entered judgment against the Defendants in the amount of \$370,487.05. (Docket no. 19, 20, 22). On June 25, 2010 Plaintiff requested that writs of garnishment issue as to Defendant RoboColor and garnishee Childers Print & Graphics, Inc. (Docket nos. 24-26). Presently before the Court is Non-party Garratt & Bachand P.C.'s objections to garnishment. (Docket no. 33). Plaintiff has not filed a response to the objections. This matter

was referred to the undersigned for decision pursuant to 28 U.S.C. § 636(b)(1)(A).<sup>1</sup> (Docket no. 39). On August 4, 2010 a telephone conference was held on this matter. The Court is ready to rule on the objections.

Non-party Garratt & Bachand P.C. filed the instant objections to garnishment on July 1, 2010. (Docket no. 33). Garratt & Bachand P.C. is a law firm that represented Defendant RoboColor in unrelated litigation against garnishee Childers Print & Graphics. On April 9, 2010 judgment was entered in state court in favor of Defendant RoboColor and against Childers Print & Graphics in the amount of \$100,000. (Docket no. 33, Ex. B). Garratt & Bachand is entitled to payment of one-third of the net sum recovered in the state court litigation under a contingency fee agreement. (Docket no. 33, Ex. A). On April 28, 2010 Defendant RoboColor and Childers Print & Graphics executed a forbearance agreement whereby Defendant RoboColor would forebear from exercising its rights as a judgment creditor in exchange for Childers Print & Graphics making quarterly payments to Defendant and to Garratt & Bachand P.C. (Docket no. 33, Ex. D).

In the instant matter, Garratt & Bachand P.C. objects to the garnishment to the extent it seeks to defeat its interest and/or attorney's lien. Following the hearing, the parties submitted a joint proposed order resolving Garratt & Bachand P.C.'s objections. This Court has reviewed the proposed order, which is attached to this Report and Recommendation, and recommends that it be entered.

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<sup>1</sup>The order of reference referred this matter for decision pursuant to 28 U.S.C. § 636(b)(1)(A). Post-judgment objections to garnishment are not pretrial matters, and therefore a Magistrate Judge who is referred these matters must proceed by Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). *United States v. Tyson*, 265 F. Supp. 2d 788, 789 (E.D. Mich. 2003).

### **III. NOTICE TO PARTIES REGARDING OBJECTIONS:**

The parties to this action may object to and seek review of this Report and Recommendation, but are required to act within fourteen (14) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec’y of Health & Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed’n Of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Any objections must be labeled as “Objection #1,” “Objection #2,” etc. Any objection must recite *precisely* the provision of this Report and Recommendation to which it pertains. Not later than fourteen days after service of an objection, the opposing party must file a concise response proportionate to the objections in length and complexity. The response must specifically address each issue raised in the objections, in the same order and labeled as “Response to Objection #1,” “Response to Objection #2,” etc.

Dated: August 16, 2010

s/ Mona K. Majzoub  
MONA K. MAJZOUB  
UNITED STATES MAGISTRATE JUDGE

**PROOF OF SERVICE**

I hereby certify that a copy of this Report and Recommendation was served upon Counsel of Record on this date.

Dated: August 16, 2010

s/ Lisa C. Bartlett  
Case Manager

**UNITED STATES DISTRICT COURT  
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**Defendants.**

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**ORDER RE: WRITS OF GARNISHMENT TO CHILDERS PRINT & GRAPHICS, INC.  
AND JOHN CHILDERS**

This Court having entered a judgment in favor of Plaintiff and against Defendants in the amount of \$370,487.05 on September 12, 2008; the amount due on that Judgment as of June 25, 2010 being \$384,892.20; Garratt & Bachand, P.C. being a law firm that represented Defendant RoboColor, LLC (“RoboColor”) in unrelated litigation in Wayne County Circuit Court (Case No. 08-124231-CZ) (the “Wayne County Litigation”); Garratt & Bachand, P.C.’s agreement with RoboColor in the Wayne County Litigation entitling Garratt & Bachand, P.C. to a one-third contingent fee; a Judgment having been entered in the Wayne County Litigation in favor of RoboColor and against Childers Print & Graphics, Inc. (“Childers Print”) and John Childers (“Childers”) in the amount of \$100,000 on April 9, 2010; an Order having been entered in the Wayne County Litigation that specifically recognized Garratt & Bachand, P.C.’s right to receive one-third of the amounts owed to RoboColor by Childers Print and Childers; RoboColor, Childers Print, and Childers having entered into a Forbearance Agreement providing, among other things, that

RoboColor would forebear from exercising its rights as a judgment creditor against Childers Print and Childers so long as Childers Print and Childers made certain payments on certain dates to RoboColor and Garratt & Bachand, P.C.; Plaintiff having caused writs of garnishment to be issued to Childers Print and Childers seeking to attach any funds that may be owed by them to RoboColor; Garratt & Bachand, P.C. having filed objections to the writs of garnishment and contending that it possesses a charging lien and is entitled to receive one-third of the amounts owed by Childers Print and Childers to RoboColor; no other objections to the writs of garnishment having been filed; and the Court being otherwise fully advised in the premises;

**IT IS HEREBY ORDERED** that Garratt & Bachand, P.C.'s objections to the writs of garnishment (docket no. 33) are sustained; with regard to the amounts to be paid by Childers Print and/or Childers pursuant to the writs of garnishment, two-thirds of each such payment shall be paid to Plaintiff and one-third of each such payment shall be paid to Garratt & Bachand, P.C.

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JOHN CORBETT O'MEARA  
UNITED STATES DISTRICT JUDGE

**CERTIFICATE OF SERVICE**

I certify that a copy of this order was served upon the parties of record on the above date electronically or by ordinary mail.

Dated:

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Case Manager

**Approved as to form:**

/s/ Michele Walton (with permission)

Michele Walton (P70795)

Attorney for Plaintiff

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/s/ Donald R. Bachand

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/s/ Terry Ross (with permission)

Terry Ross (P37587)

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Childers Print & Graphics, Inc.

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